

### **REMARKS**

Claims 57-70 are rejected under obviousness-type double patenting over claims 1-35 of U.S. Patent No. 5,489,678.

A Terminal Disclaimer is being provided herewith, in which the owner of 100% interest in the present application, Affymetrix, Inc., thereby disclaims the terminal part of the statutory term of any patent granted on the present application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 5,489,678.

Applicants submit that the Terminal Disclaimer obviates the obviousness-type double patenting rejection. Withdrawal of the rejection is respectfully requested.

### **Objection to Claims 71-73**

Claims 71-73 are objected to as being dependent upon a rejected base claim. As discussed above, the base claim for claims 71-73 is allowable in view of the Terminal Disclaimer that is submitted concurrently herewith. Withdrawal of the objection is respectfully requested.

### **CONCLUSION**

In view of the above remarks, Applicants believe the pending application is in condition for allowance.

Application No. 10/033195  
Amendment dated October 17, 2005  
Reply to Office Action of July 15, 2005

Docket No.: AFMX-P01-042

Applicant believes no fee is due with this response, other than the fee associated with the Terminal Disclaimer. However, if additional fees are due, please charge our Deposit Account No. 18-1945, from which the undersigned is authorized to draw, under Order No. AFMX-P01-042.

Dated: October 17, 2005

Respectfully submitted,

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